

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Misc. No. 06-003 (JJF)
)	
BEN-CEN, INC.,)	
)	
Defendant.)	

**MOTION TO ALLOW DEPARTMENT OF JUSTICE ATTORNEY TO
APPEAR WITHOUT LOCAL COUNSEL**

Pursuant to 28 U.S.C. §§ 515, 517 and 518, the United States respectfully moves this Court for an Order allowing Department of Justice Attorney, Jennifer L. Best, to appear before this Court without local counsel. Additionally, the United States requests that Ms. Best be provided with an electronic filing password so that she can remotely file pleadings with this Court. In support of this motion, the United States provides the following:

1. The statutes of the United States allow the Attorney General to send its attorneys to state and federal courts throughout the nation. See 28 U.S.C. § 515 (the Attorney General or any other officer of the Department of Justice may conduct any kind of legal proceeding which United States attorneys are authorized by law to conduct, whether or not he/she is a resident of the district in which the proceeding is brought); 28 U.S.C. § 517 (any officer of the Department of Justice may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State); 28 U.S.C. § 518 (The Attorney General may direct an officer of the Department of Justice to

conduct and argue any case in a court of the United States in which the United States is interested). Thus, to the extent that Local Rule 83.5 of this Court requires that Department of Justice attorneys based in Washington, DC, associate with local counsel, it would appear to conflict with the above-referenced statutes. See Fed. R. Civ. P. 83(a)(1) (local rules must be consistent with Acts of Congress). Accordingly, the United States respectfully requests that, in this particular case, the Court waive the local counsel requirement of Local Rule 83.5.

2. In this matter, the Attorney General has assigned primary responsibility for this case to the Department's Tax Division in Washington, DC. In turn, the Tax Division has designated Ms. Best as lead attorney.

3. Department of Justice attorney Jennifer L. Best has already been admitted to this Court *pro hac vice*. As such, she has submitted to the disciplinary jurisdiction of this Court, and has certified that she is generally familiar with this Court's Local Rules. Ms. Best is an able and competent attorney. Ms. Best graduated from the Chicago-Kent College of Law in June 1999. She is an active member of the State Bar of Illinois. Ms. Best was selected for employment with the Justice Department through the Attorney General's Honors Program. She has served as a Trial Attorney in the Tax Division from September 2000 to the present. In that capacity, Ms. Best has been the lead attorney in numerous federal cases. She has represented the interests of the federal government in oral arguments in the Eastern District of Pennsylvania, Middle District of Pennsylvania, Eastern District of Tennessee, Middle District of Tennessee, Western District of Tennessee, Northern District of West Virginia and the bankruptcy courts in those districts

as well as several others. Additionally, she has taken and defended a number of depositions. Ms. Best has also filed briefs or otherwise appeared (in person or telephonically) in many federal courts including those listed above.

Accordingly, for the reasons set forth above, the United States respectfully requests that Department of Justice Attorney Jennifer L. Best be allowed to appear before this Court without local counsel and that she be provided with an electronic filing password so that she can remotely file pleadings with this Court. A proposed order is attached hereto.

Dated: March 31, 2006

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/s/ Ellen W. Slights

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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of March, 2006, I electronically filed the attached **MOTION TO ALLOW DEPARTMENT OF JUSTICE ATTORNEY TO APPEAR WITHOUT LOCAL COUNSEL** with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

I hereby attest that on this 31st day of March, 2006, I have mailed by United States Postal Service, the document to the following non-registered participants:

Ben-Cen, Inc.
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ORDER

UPON CONSIDERATION of the United States' motion to allow Department of Justice Attorney Jennifer L. Best to appear without local counsel, the reasons stated therein, and the entire record herein, it is the ____ day of _____, 2006 hereby

ORDERED that the United States' motion should be and it hereby is granted; and it is,

FURTHER ORDERED that, for this matter only, Local Rule 83.5(d) is waived, and Department of Justice Attorney Jennifer L. Best is not required to associate with local counsel nor is the United States Attorney's Office required to sign pleadings nor attend proceedings with her; and it is,

FURTHER ORDERED that the Clerk's Office provide Department of Justice Attorney Jennifer L. Best with an Electronic Filing Log-In and Password so that she may file pleadings in this Court without the participation of the United States Attorney's Office.

UNITED STATES DISTRICT JUDGE